IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11269 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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DEVCHANDBHAI K TONDEL

Versus

STATE OF GUJARAT

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Appearance:

MR DM THAKKAR for M/S THAKKAR ASSOC. for Petitioner

MR SAMIR J DAVE for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/02/2001

ORAL JUDGEMENT

1. Reply to the special civil application has not been filed. This matter was admitted on 1st November, 2000. Shri Dave prays for short adjournment to file reply to the special civil application. I do not find

any justification in this prayer made by the learned counsel for the respondents as more than sufficient time was at the disposal of the respondents, if they really desired to file reply to the special civil application.

2. In para (k) at page No.8 of this special civil application, the petitioner made a grievance that the detaining authority has not supplied the copy of statements of the witnesses recorded by police u/s.161 of Cr.P.C.. It is further stated that the petitioner made this demand i.e. the demand for copies of statements in representation made to the detaining authority.

3. This factual averment has not been controverted by the respondents, as a result of which, it has to be accepted and accordingly it is a clear case where the petitioner has been denied of his valuable right conferred upon him under Article 22(5) of the Constitution of India of making effective representation against the order of detention.

4. In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 20-9-2000 is quashed and set aside. The petitioner Shri Devchandbhai K. Tondel, detenue at present in Sabarmati Central Jail, Ahmedabad be set free forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

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zgs/-